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August 22, 1996

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Hon. William F. Caton  
Secretary  
Federal Communications Commission  
Washington, DC 20554

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AUG 22 1996

Federal Communications Commission  
Office of Secretary

Re: Streamlining Broadcast EEO  
Rule and Policies, Vacating the EEO  
Forfeiture Policy Statement and  
Amending Section 1.80 of  
the Commission's Rules to Include  
EEO Forfeiture Guidelines

MM Docket No. 96-16

Comments of The Coalition for Practical  
Regulations in Eliminating Barriers to  
Jobs and Opportunities

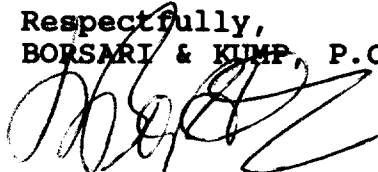
Sir:

Transmitted herewith on behalf of The Coalition for Practical Regulations in Eliminating Barriers to Jobs and Opportunities is an original and 10 copies of its comments in the above referenced rulemaking proceeding. Pursuant to Section 1.419 of the Commission's rules sufficient copies are included for each Commissioner to have a personal copy.

The date to file comments was extended to and including August 26, 1996 by Order (DA-96-1279), released August 9, 1996.

Should any questions arise with respect to this matter please contact this office, pursuant to Section 1.12 of the Commission's rules.

Respectfully,  
BORSARI & KUMP, P.C.



John A. Borsari

Encl: Comments

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The Comments of the Coalition for Practical Regulations in Eliminating Barriers to Jobs and Opportunities (the "Coalition") are submitted in reply to responses filed with the Commission in its request for comments on its proceedings to streamline its EEO processes. In fact this reply is in response to an ABSENCE of filed comments even touching on the theme presented by the Coalition's "that the EEO processes, rather than being in need of streamlining, are themselves completely contrary in their results to their very stated purpose and should be abolished."

The members are broadcast operators and owners of long standing in numerous markets with reputations as good and leading operators in each of the markets and as organizations that are fair, demanding and "good places to work." Organizations with which the members have been associated have never received any criticism from the Commission or any other governmental agency with respect to conduct relating to EEO.

These comments are being submitted without identification, consistent with the very theme offered herein; that is, that identification of the members would subject them on their "politically incorrect" statements of truth to targeting of and retaliation against them and their businesses and organizations by self-serving "think good" governmental representatives and powerful vested interest groups, some with sincere but mistaken good intentions, ostensibly representing the anguish of their adopted "discriminated" minority members (minority whether by race, color, creed, sex, religion, disability, mentality, ethnic background, sexual preference, etc.) which practically would ruin the members and their organizations, creating financial ruin if ruin of the soul be not enough. This belief, and this knowledge that such real pressure effectively voids the First Amendment rights and powers of employers in crying out against this travesty of "care", is not the members' alone; if they were willing to voice it, it is a pervasive

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belief of thinking employers, though stilled by and put up with for reasons of human inertia and "the easy way out" and fear of retaliation by the "protectors of the discriminated."

Of course, before being attacked for the exceptions, let the members acknowledge and state that "nothing" (except nothing) is "never" or "always"; and therefore will be exceptions to the theme of this message, but employment actions if freely taken will much more fully tend toward the message expounded here than will the exceptions; and further, such positive actions and results will in an absolute quantitative sense be generally and much greater than at now.

What then is the members' theme? The members merely wish to articulate that in these 1990's, and probably in those 1980's, employers in general, and the members of their organizations too, have, in the selection and retention and association and development of their people, an overriding concern, desire and demand for performance effectiveness that vastly outweighs any superficial but sometimes real initial reaction to stereotypical discrimination-creating characteristics. Even if "you" are a club-footed, black, female, old, Jewish, Moroccan, in a wheel chair, deaf in one ear and blind in one eye, if you "can" and "will" make an effective contribution to that employer organization, then that employer will hire you, and value you and respect you and nurture your growth...so long as you repay that trust with results and effort and respect and organizational effectiveness. ... And once committed, possibly if not probably, to a degree even more than your relative contribution merits. Too many, whether minority or majority today, frankly forget -- or possibly never learned -- that BOTH employee and employer have responsibility to each other and that the employee's responsibility is not fulfilled unless he makes a full share contribution to his organization's (employer's) purpose.

What does such "debatable" human interpretation and expectation have to do with EEO? The truth is that employer behavior of this type is thwarted by the EEO process and by most

other employment laws and regulations designed to protect and assist the competent and less willing. The EEO laws establish quotas upon which employers are judged. EEO rule proponents will vigorously deny this and even declare that the laws or rules specifically disclaim the existence of quotas, but in fact the easiest, and maybe the only practical way to avoid allegations of "non-compliance" is to behave as though in fact there are quotas even when there are not. While so called "effort" judgments have been articulated to supposedly replace quota judgments, their subjectivity fosters a quota mentality as the safer course.

However, both interpretations, whether written that way or not, are subject to abuse as interest groups and disgruntled employees wield these tools as their base in furtherance of their "cause", retaliation and real or threatened blackmail under the guise of non-compliance. Yes, there may be occasions when there are inappropriate actions or behavior toward other human beings; but the misfortune in these cases is probably vastly outweighed by the employer waste in striving to satisfy policy standards and engaging in defenses and distractions against baseless allegations or implied threats or allegations or retaliation created under the EEO laws (the cost of which can be very real and the act of working through the process can be much greater punishment, both financially and intangibly, than even the punishment of guilt.)

As a consequence, employers practice, for practical purposes of their own real survival, defensive employment practices rather than enlightened and mutually beneficial personnel judgments and actions. Such defensive practices are actually not productive for the enterprise nor are they conducive to the identification, retention, growth and development of the very minority and otherwise targeted people of our society that such laws are intended to protect and help. In fact most employers would often actually like to fill a personnel need by "taking a chance" or gambling on characteristics of an individual who might with a chance or with help

or with nurturing be a "winner" for that employer or at least be a solid productive member of that organization or who by whatever characteristics elicits on the part of the employer a desire to help rather than taking the alternative same "safe" applicant.

The problem with such caring and mutually self-interest hiring is that, under our rules and laws, if such employee does not work out then the employer too often is the subject of and target for actual and threatened abuse of the laws through claims to governing agencies, civil suits and allegations of discrimination and threats of action, all of which are too often, if not usually, nothing more than blackmail knowing that settlement payoff by an employer is tremendously less expensive directly and indirectly than the punishment of the process, even when the process results in a verdict of "employer not guilty". Even a segment of a legal bar has developed and flourishes with this opportunity. And further as a consequence in the real world, probably many minorities of color or disability or whatever characteristic who could be "winners" or at least a more productive and proud rising member of our society are denied the chance to so prove their worth. The employer in all reality cannot afford to be wrong in his gamble and the people of whom we are speaking, on whom he would gamble will have more than a normal share of failures, and each of those failures can be explosive as their gun is pre-loaded with EEO torture, "blame-think" and process encouragement. And so the employer in the interest of survival subverts the very mission for which the laws and regulations were ostensibly established and which, in fact, the employer would prefer to pursue.

This is the real world. To deny it is to lie or to be on another planet. Some EEO advocate or minority "minority protector" will surely do a public solicitation of employers to disprove this theme by such employers' public disavowal of concurrence in any way with this statement. Will that in fact prove anything? No! It will only reflect the survival self-interest

of the solicited parties in the same manner and for the same reasons that these members cannot identify themselves.

Is this not a shame on our society? Is this not a shame on our government? Is this not a tragedy of lost opportunity for the less fortunate to grow and assume a rightful earned place in our society? Is this not a tragedy that our society cannot benefit from the increased contributions of all types of persons that would result from true employment freedom?

Do away with laws, regulations and agencies that legislate equality!..... and improve the equality of opportunity!